

**IN THE COURT OF THE
ADDITIONAL CIVIL JUDGE
AT.JAGADIYA**



सत्यमेव जयते

ORDER BELOW EXHIBIT- 18

A.BRIEF FACTS OF THE SUIT

(1) The present application has been preferred by Defendant No.1, 3, 4/1, and 5/3 to 5/4 under the provisions of Order 7 Rule 11(a) & (d) of the Code of Civil Procedure, 1908, praying for rejection of the plaint on the grounds that (i) the plaint does not disclose any cause of action, and (ii) the suit is barred by law.

(2) The case of the defendants in brief is that the plaintiff has instituted the present suit seeking declaration of his alleged 1/7th share in Revenue Survey No.305 situated at Village Vaghpara, Taluka Jhagadia, District Bharuch, for partition and separate possession thereof and for cancellation of Sale Deed No.72/2020 dated 24/01/2020. It is further contended that the plaintiff is neither owner nor recorded holder of the suit property and no documentary evidence has been produced by her to establish her rights. Therefore, according to the defendants, the plaint does not

disclose any cause of action. It is further contended that the plaintiff has challenged a sale transaction valued at Rs.10,70,000/- but have paid court fees only to the extent of Rs.7,260/-. According to the defendants, since cancellation of the sale deed has been sought, ad valorem court fees ought to have been paid on the valuation of Rs.10,70,000/- and therefore the suit is liable to be rejected for insufficiency of court fees. The defendants have further contended that the cause of action pleaded by the plaintiff is based upon a partition deed dated 17/05/1995 and Mutation Entry No.2657 dated 04/05/2011. Despite having knowledge of the said transactions, the plaintiffs did not challenge the same for several years. Therefore, according to the defendants, the suit is barred by law within the meaning of Order VII Rule 11(d) of the Code of Civil Procedure 1908.

(3) The plaintiffs have filed their reply vide **EXH-23** resisting the application. It is contended that the plaint specifically discloses the cause of action and the reliefs claimed. The plaintiffs submit that all allegations regarding absence of title, limitation and insufficiency of court fees involve disputed questions requiring evidence and adjudication during trial. It is further contended that the suit has been properly valued and appropriate court fees have been paid considering the nature of reliefs claimed. The plaintiffs have therefore prayed for dismissal of the application.

(4) I have heard the learned advocates for both sides and perused the plaint, the application, the reply and the record of the case.

B. SCOPE UNDER O7 R 11

(5) Before advertng to the dispute on hand, it would be preferable to consider Rule-11 (a) and (d) of order VII of the Code of Civil of Procedure 1908, which reads in the following manner.

The plaint shall be rejected in the following cases-

(a) where the plaint does not disclose a cause of action.

(d) where the suit appears from the statement in the plaint to be barred by any law.

The opening words of Order VII Rule 11 "The Plaint shall be rejected in following cases". imply that it is mandatory for the court to reject the Plaint if it falls under any of the grounds mentioned in order VII rule 11.

(6) The judgment rendered by the Hon'ble Supreme Court in the case of **Kuldeep Singh Pathania Vs. Bikram Singh Jaryal reported in (2017) 5 SCC, 345** where in the Hon'ble Supreme Court has held that. The Court has to only see whether the plaint or the complaint in the plaint constitute a cause of action. Pleadings in the sense where even after the stage of written statement, if there is an application filed in the given situation, the same also can be looked into to see whether there is any admission on the part of the plaintiff. In other words, under Order VII Rule-11

the Court has to take a decision looking at the pleadings of the plaintiff only and not on the rebuttal made by the defendants or any other material produced by the defendants.

(7) In the case of **Saleem Bhai v.State of Maharashtra,(2003) 1 SCC 557**,Hon'ble Supreme court has given certain guiding principles to the court which are to be duly considered while deciding an application for rejection of plaint.Hon'ble Apex court has held as under. A perusal of order 7 Rule 11 cpc makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint .The trial court can exercise the power under Order 7 Rule 11 at any stage of the suit before registering the plaint or after issuing summons to the defendants conclusion or at any time before conclusion of the trial.For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane, the pleas taken by the Defendants in the written statement would be wholly irrelevant at that stage.

(8) Further,in the case of **Chhotanbhen v. KiritibhaiJalkrushnabhai Thakkar,2018 6 SCC 422**, the Supreme court reiterated this legal position and held that What is relevant for answering the matter in issue in the context of the application under Order 7 Rule 11(d) CPC, is to examine the averments in the plaint.The plaint is required to be read as a whole The defence available to the defendants or the plea taken by them in the written statement or any application filed by them cannot be the

basis to decide the application under the Order VII Rule 11 (d). Only the averment made in the plaint are germane.

(9) Thus, it is crystal clear that for the purpose of deciding an application under Order VII Rule 11 for rejection of a plaint, only averment made in the plaint are to be seen. Plaint cannot be rejected on the basis of written statement filed by the Defendants. The above mentioned principle of law has been duly considered by this court while arriving at just decision in this application.

FINDINGS AND REASONS:

(10) For a proper adjudication of this application, this Court has examined the plaint along with the documents produced vide Mark 3/1 to Mark 3/8—including the 2020 revenue records showing the property exclusively in the name of Defendant No. 1, the family pedigree confirming the sibling relationship of the parties, the 1995 unregistered Partition Agreement and the 2011 Mutation Entry No. 2657. While the defendants argue that the suit is barred by limitation due to the old family arrangement and the subsequent mutation. The plaintiff has explicitly challenged the validity of these underlying transactions, contending that the 1995 partition agreement contains the forged and false signatures of herself and other legal heirs. Furthermore, Defendant No. 1 executed the impugned registered sale deed in favor of Defendant No. 8 on January 24, 2020, and the plaintiff immediately instituted the present suit on February 26, 2020, less than a month after the property was sold. It is a well-settled principle of law that for

the purpose of deciding an application under Order VII Rule 11, the Court must look strictly at the averments made in the plaint alone rather than the written statement . Because the plaintiff's plaint clearly outlines that her coparcenary rights were actively infringed by this unauthorized 2020 sale, the suit is within the period of limitation from the date the real cause of action arose. For Determining whether the signatures on the 1995 unregistered agreement are forged, whether fraud was played upon the family, and the plaintiff's knowledge are mixed questions of fact and law that require strict judicial scrutiny and cannot be decided without a full-scale trial and the cross-examination of witnesses. Finally, regarding the objection of insufficient court fees for the property valued at Rs.10,70,000/-, the statutory framework of Order VII Rule 11(b) and (c) dictates that a plaint cannot be rejected straightaway without first granting the plaintiff a reasonable opportunity to correct the valuation or supply the deficit court fees, which can be appropriately directed during the framing of issues if found deficient. The plaintiffs seek declaration of their civil rights in respect of the suit property. These averments, if taken at their face value, clearly disclose a cause of action. At this stage, the Court is not required to evaluate the merits of the claim but only whether, assuming the plaint averments to be true, a cause of action exists. Accordingly, this court hold that the plaint does disclose a cause of action. However, the law is well-settled that mutation entries in revenue records are only for fiscal purposes and do not by themselves confer or extinguish title. When the plaintiffs' case is that the very documents forming the basis of such entries are fraudulent and void, the

jurisdiction of the Civil Court under Section 9 CPC cannot be ousted.

(13) Thus, from the above discussion, this court is of the view that the Application under O7 R 11 is not tenable. Therefore, in the interest of justice, the following order is passed.

-:: O R D E R ::-

- The present application is hereby ordered to be rejected.
- No order as to cost.

Signed and Pronounced in this open court today on this **8th** day of **june** month of **2026**.

Date: 08.6.2026
Place: Jhagadia

J.S.RATHORE f
ADDI CIVIL JUDGE & J.M.F.C
JHAGADIA,
JUDGE CODE NO GJ01695